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Attorneys for Complainant

**BEFORE THE  
PHYSICAL THERAPY BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

ROBERT FRANK FORSTER  
1115 Pine Street  
Santa Monica, CA 90405

Physical Therapist No. PT 10374

Respondent.

Case No. 1D-2000-62530, consolidated  
with Case Nos. 1D-2002-62948, 1D-  
2003-63544 and 1D-2002-63227

OAH No. L-2002100172

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and the responsibility of the Physical Therapy Board of California of the Department of Consumer Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will be submitted to the Board for approval and adoption as the final disposition of the Accusation

**PARTIES**

1. Steven K. Hartzell (Complainant) is the Executive Officer of the Physical Therapy Board of California. He brought this action solely in his official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by E. A. Jones III, Deputy Attorney General.

2. Respondent Robert Frank Forster (Respondent) is represented in this proceeding by attorney John F. Libby, whose address is Manatt, Phelps & Phillips, 11355 W.

Olympic Blvd., Los Angeles, CA 90064-1614.

3. On or about May 14, 1981, the Physical Therapy Board of California issued Physical Therapist No. PT 10374 to Robert Frank Forster (Respondent). The Therapist was in full force and effect at all times relevant to the charges brought in Accusation No. 1D-2000-62530, consolidated with Case No. 1D-2002-62948, 1D-2003-63544 and 1D-2002-63227, and will expire on July 31, 2006, unless renewed.

## JURISDICTION

4. First Amended Accusation No. 1D-2000-62530, consolidated with Case Nos. 1D-2002-62948, 1D-2003-63544 and 1D-2002-63227, was filed before the Physical Therapy Board of California (Board), Department of Consumer Affairs, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on January 29, 2004. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of First Amended Accusation No. 1D-2000-62530, consolidated with Case Nos. 1D-2002-62948, 1D-2003-63544 and 1D-2002-63227, is attached as exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 1D-2000-62530, consolidated with Case Nos. 1D-2002-62948, 1D-2003-63544 and 1D-2002-63227. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

1                   7.       Respondent voluntarily, knowingly, and intelligently waives and gives up  
2 each and every right set forth above.

3   CULPABILITY

4                   8.       Respondent admits the truth of each and every charge and allegation in  
5 paragraph 18 of the First Amended Accusation No. 1D-2000-62530, consolidated with Case  
6 Nos. 1D-2002-62948, 1D-2003-63544 and 1D-2002-63227, relating to failures to document  
7 treatment.

8                   9.       Respondent agrees that his Physical Therapist is subject to discipline and  
9 he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary  
10 Order below.

11   CIRCUMSTANCES IN MITIGATION

12                   10.       Respondent Robert Frank Forster has never been the subject of any  
13 disciplinary action. He is accepting responsibility at an early stage in the proceedings.  
14 Respondent has changed his billing practices in order to address issues raised in First Amended  
15 Accusation No. 1D-2000-62530, consolidated with Case Nos. 1D-2002-62948, 1D-2003-63544  
16 and 1D-2002-63227. In order to reinforce his understanding of the requirements for supervision  
17 of physical therapy aides, respondent has agreed to take additional continuing education courses.  
18 Respondent acknowledges that a physical therapist must be on the premises and in physical  
19 proximity at all times when a physical therapy aide provides physical therapy services to a  
20 patient. Respondent acknowledges that a physical therapist must personally provide direct  
21 service or direct evaluation of a patient who receives physical therapy services from a physical  
22 therapy aide as required by Board regulations. Respondent further acknowledges that the  
23 physical therapist must document in the chart such direct services or evaluation as required by  
24 Board regulations.

25   RESERVATION

26                   11.       The admissions made by Respondent herein are only for the purposes of  
27 this proceeding, or any other proceedings in which the Physical Therapy Board of California or  
28 other professional licensing agency is involved, and shall not be admissible in any other criminal

1 or civil proceeding.

2 CONTINGENCY

3 12. This stipulation shall be subject to approval by the Physical Therapy Board  
4 of California. Respondent understands and agrees that counsel for Complainant and the staff of  
5 the Physical Therapy Board of California may communicate directly with the Board regarding  
6 this stipulation and settlement, without notice to or participation by Respondent or his counsel.  
7 By signing the stipulation, Respondent understands and agrees that he may not withdraw his  
8 agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon  
9 it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement  
10 and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be  
11 inadmissible in any legal action between the parties, and the Board shall not be disqualified from  
12 further action by having considered this matter.

13 13. The parties understand and agree that facsimile copies of this Stipulated  
14 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same  
15 force and effect as the originals.

16 14. In consideration of the foregoing admissions and stipulations, the parties  
17 agree that the Board may, without further notice or formal proceeding, issue and enter the  
18 following Disciplinary Order:

19 DISCIPLINARY ORDER

20 IT IS HEREBY ORDERED that Physical Therapist No. PT 10374 issued to  
21 Respondent Robert Frank Forster is suspended for sixty (60) days. However, the suspension is  
22 stayed and Respondent is placed on probation for three (3) years on the following terms and  
23 conditions.

24 1. RESTRICTION OF PRACTICE - PROHIBITION OF DIRECT  
25 INSURANCE BILLING Respondent shall not have final approval over any billing submitted to  
26 any third party payors for physical therapy service provided by respondent or his employees.

27 2. RESTRICTION OF PRACTICE - MONITORING Within 30 days of the  
28 effective date of this decision, respondent shall submit to the Board or its designee for its prior

1 approval a plan of practice in which respondent's practice shall be monitored by a physical  
2 therapist, licensed to practice in the State of California, who shall provide periodic reports to the  
3 Board or its designee.

4 3. If the monitor resigns or is no longer available, respondent shall, within 10  
5 days, move to have a new monitor appointed, through nomination by respondent and approval by  
6 the Board or its designee.

7 4. RESTRICTION OF PRACTICE - NO EMPLOYMENT OR  
8 SUPERVISION OF PHYSICAL THERAPY STUDENT INTERNS Respondent shall not  
9 supervise any physical therapy student interns during the entire period of probation. Respondent  
10 shall terminate any such supervisory relationship in existence on the effective date of this  
11 probation.

12 5. NOTIFICATION TO PATIENTS The respondent shall notify all current  
13 and potential patients of any term or condition of probation which will affect their treatment or  
14 the confidentiality of their records (such as a condition for a practice monitor). Such notification  
15 shall be signed and dated by each patient prior to the commencement or continuation of any  
16 examination or treatment of each patient by the respondent and a copy of such notification shall  
17 be maintained in the patient's record.

18 6. PROBATION MONITORING COSTS All costs incurred by the Board  
19 for probation monitoring during the entire period of probation shall be reimbursed by respondent.  
20 Respondent will be billed at least quarterly. Failure to make the ordered reimbursement within  
21 60 days of the billing shall constitute a violation of the probation order. In addition to the filing  
22 of an Accusation or the issuance of an administrative citation, the filing of criminal charges shall  
23 be sought when appropriate.

24 7. COST RECOVERY The respondent is ordered to reimburse the Board  
25 the actual and reasonable investigative and prosecutorial costs incurred by the Board in the  
26 amount of \$18,000.00. If the respondent pays \$9,000.00 within sixty (60) days of the effective  
27 date of this stipulation, the balance will be forgiven. Failure to timely make the \$9,000.00  
28 payment shall cause the whole amount (\$18,000.00) to be due and payable. Failure to make the

ordered reimbursement, or any agreed upon payment, may constitute a violation of the probation order.

8. OBEY ALL LAWS Respondent shall obey all federal, state and local laws, and statutes and regulations governing the practice of physical therapy in California.

9. COMPLIANCE WITH ORDERS OF A COURT The respondent shall be in compliance with any valid order of a court. Being found in contempt of any court may constitute a violation of probation.

10. COMPLIANCE WITH CRIMINAL PROBATION AND PAYMENT OF RESTITUTION Respondent must not violate any terms and conditions of criminal probation, if any, and must be in compliance with any restitution ordered.

11. QUARTERLY REPORTS Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

12. PROBATION MONITORING PROGRAM COMPLIANCE Respondent shall comply with the Board's probation monitoring program.

13. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent shall appear in person for interviews with the Board, or its designee, upon request at various intervals and with reasonable notice.

14. NOTIFICATION OF PROBATIONAL STATUS TO EMPLOYERS The respondent shall notify all present or future employers of the reason for and the terms and conditions of the probation by providing a copy of the First Amended Accusation and the decision and order to the employer. The respondent shall obtain written confirmation from the employer that the documents were received. If the respondent changes employment or obtains additional employment, the respondent shall provide the above notification to the employer and submit written employer confirmation to the Board within 10 days. The notification(s) shall include the name, address and phone number of the employer, and, if different, the name, address and phone number of the work location.

15. NOTIFICATION OF CHANGE OF NAME OR ADDRESS The

respondent shall notify the Board, in writing, of any and all changes of name or address within ten (10) days.

16. PROHIBITED USE OF ALIASES Respondent may not use aliases and shall be prohibited from using any name which is not his legally-recognized name or based upon a legal change of name.

17. WORK OF LESS THAN 20 HOURS PER WEEK If the respondent works less than 192 hours in a period of three months, those months shall not be counted toward satisfaction of the probationary period. The respondent shall notify the Board if him works less than 192 hours in a three month period.

18. TOLLING OF PROBATION The period of probation shall run only during the time respondent is practicing within the jurisdiction of California. If, during probation, respondent does not practice within the jurisdiction of California, respondent is required to immediately notify the probation monitor in writing of the date that respondent's practice is out of state, and the date of return, if any. Practice by the respondent in California prior to notification to the Board of the respondent's return will not be credited toward completion of probation. Any order for payment of cost recovery shall remain in effect whether or not probation is tolled.

19. VIOLATION OF PROBATION If respondent violates probation in any respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

20. CESSATION OF PRACTICE DUE TO RETIREMENT, HEALTH OR OTHER REASONS Following the effective date of this probation, if respondent ceases practicing physical therapy due to retirement, health or other reasons, respondent may request to surrender his license to the Board. The Board reserves the right to evaluate the respondent's request and to exercise its discretion whether to grant the request or to take any other action

1 deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the  
2 tendered license, the terms and conditions of probation shall be tolled until such time as the  
3 license is no longer renewable, the respondent makes application for the renewal of the tendered  
4 license or makes application for a new license.

5 21. COMPLETION OF PROBATION Upon successful completion of  
6 probation, respondent's license or approval shall be fully restored.

7 22. WRITTEN EXAM ON THE LAWS & REGULATIONS GOVERNING  
8 THE PRACTICE OF PHYSICAL THERAPY Within 90 days of the effective date of this  
9 decision, respondent shall take and pass the Board's written examination on the laws and  
10 regulations governing the practice of physical therapy in California. If respondent fails to pass  
11 the examination, respondent shall be suspended from the practice of physical therapy until a  
12 repeat examination has been successfully passed.

13 23. PRACTICE OR PERFORMANCE OF PHYSICAL THERAPY WHILE  
14 ON PROBATION It is not contrary to the public interest for the respondent to practice and/or  
15 perform physical therapy under the probationary conditions specified in the disciplinary order.  
16 Accordingly, it is not the intent of the Board that this order, the fact that the respondent has been  
17 disciplined, or that the respondent is on probation, shall be used as the sole basis for any third  
18 party payor to remove respondent from any list of approved providers.

19 ACCEPTANCE

20 I have carefully read the above Stipulated Settlement and Disciplinary Order and  
21 have fully discussed it with my attorney, John F. Libby. I understand the stipulation and the  
22 effect it will have on my Physical Therapist. I enter into this Stipulated Settlement and  
23 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
24 Decision and Order of the Physical Therapy Board of California.

25 DATED: February 16, 2005.

26  
27 Original Signed By:  
28 ROBERT FRANK FORSTER  
Respondent



1 I have read and fully discussed with Respondent Robert Frank Forster the terms  
2 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary  
3 Order. I approve its form and content.

4 DATED: February 18, 2005.

6 Original Signed By:  
7 JOHN F. LIBBY  
8 Attorney for Respondent

9 ENDORSEMENT

10 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
11 submitted for consideration by the Physical Therapy Board of California of the Department of  
12 Consumer Affairs.

14 DATED: February 23, 2005.

15 BILL LOCKYER, Attorney General  
16 of the State of California

17 Original Signed By:  
18 E. A. JONES III  
19 Deputy Attorney General  
20 Attorneys for Complainant

21 DOJ Docket/Matter ID Number: 03575160-LA02 D1287  
22 Forster Decision.wpd  
23  
24  
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**Exhibit A**

**First Amended Accusation No. 1D-2000-62530, consolidated with Case Nos.  
1D-2002-62948, 1D-2003-63544 and 1D-2002-63227**

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2003-63544 and 1D-2002-63227

OAH No. L-2002100172

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Physical Therapy Board of California, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on May 2, 2005.

It is so ORDERED April 1, 2005.

Original Signed By: Donald A. Chu, PhD, PT, President  
**FOR THE PHYSICAL THERAPY BOARD OF CALIFORNIA**  
**DEPARTMENT OF CONSUMER AFFAIRS**